

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

**APPLICATION FOR CERTIFICATION OF THE
GWF TRACY PEAKER PROJECT
IN SAN JOAQUIN COUNTY**

(GWF ENERGY LLC)

DOCKET No. 01-AFC-16

**APPLICATION COMPLETE
(DATA ADEQUATE)
OCTOBER 17, 2001**

**REVISED COMMITTEE RULING ON ELIGIBILITY FOR EXPEDITED REVIEW and
SCHEDULE**

I. Revised Eligibility Ruling

Background

Applicant originally sought review of its Application for Certification (AFC) under the four-month expedited review process described in Public Resources Code section 25552. Said section provides that within 25 days after acceptance of an AFC, the Energy Commission or a Committee of the Energy Commission must determine whether the AFC qualifies for an expedited decision. (Pub. Res. Code, § 25552, subd. (b)(2).) On Wednesday, October 17, 2001, the Energy Commission accepted Applicant's AFC as data adequate and appointed a Committee to conduct proceedings on the AFC.

On October 17, 2001, as a necessary prerequisite to accepting Applicant's AFC as data adequate, the Energy Commission also adopted Resolution No. 01-1017-02. Resolution No. 01-1017-02 suspended two requirements imposed by Public Resources Code section 25552. It suspended the requirement that a project not be a major source of air pollution and the requirement that a project convert to combined cycle or cogeneration within 3 years of initial operation. The GWF Tracy Peaker Project is a nominal 169 megawatt simple cycle natural gas-fired power plant. Applicant does not plan to convert the plant to combined cycle or cogeneration within 3 years of initial operation. Thus, in the absence of the waiver contained in Resolution No. 01-1017-02, the GWF Tracy Peaker Project would not have qualified for the four-month expedited review process of Public Resources Code section 25552.

On November 9, 2001, based on the waivers established in the Resolution, the Committee granted Applicant's request for an expedited decision pursuant to Public Resources Code section 25552, subject to timely provision of data responses, relevant agency reviews, and the Final Determination of Compliance.

On November 14, 2001, the full Energy Commission considered a Petition for Reconsideration of Resolution No. 01-1017-02. Said petition asserted that the Energy

Commission does not have the authority to waive the requirements of Section 25552. The matter was continued to December 5, 2001, for further consideration. On December 5, 2001, the Commission unanimously voted to rescind Resolution No. 01-1017-02.

A public Informational Hearing on the AFC was held on November 28, 2001. At the hearing, Applicant, Commission staff, and local agencies presented information about the project, including the availability of the Final Determination of Compliance,¹ Applicant's recent filing of its System Impact Study, and Applicant's anticipated signing of a contract with its general contractor (which requires the use of skilled labor) by December 5, 2001. Several residents and members of the public also addressed the Committee regarding their concerns about the project's potential impacts on the community.

Discussion

Given the rescission of Resolution No. 01-1017-02, the GWF Tracy Peaker Project does not currently qualify for the expedited four-month review process set forth in Public Resources Code section 25552. The Committee therefore believes that this proceeding should go forward under the provisions of Public Resources Code section 25540.6.² We base this decision on the state of readiness of the proceeding, as evidenced by Applicant's success in providing not only timely but early information, and our belief that the processing of this AFC should be accomplished as expeditiously as the readiness of the parties will allow. In order to provide immediate clarity and guidance to Applicant, Staff, governmental agencies, and the participating public, the Committee has established a schedule for processing the AFC. However, the Committee recognizes that given the local community's active interest in this project, the schedule may be affected by the need to respond to community concerns through public workshops and/or hearings.

Ruling

1. The GWF Tracy Peaker Project AFC shall be processed pursuant to Public Resources Code section 25540.6; and
2. The GWF Tracy Peaker Project AFC shall be processed in accordance with the attached Committee schedule.

II. Schedule

The attached Committee schedule is based on discussions at the November 28, 2001, Informational Hearing and the schedule proposed by Energy Commission staff in its

¹ At hearing the San Joaquin Valley Air Pollution Control District indicated it planned to issue a corrected Final Determination of Compliance (FDOC). The corrected FDOC for the project was filed on December 5, 2001.

² Public Resources Code section 25540.6 does not impose the same eligibility restrictions contained in Public Resources Code section 35552.

November 2, 2001, Issue Identification Report. It contains a list of events that must occur in order to complete the certification review in a timely manner. Several deadlines listed in the schedule are contingent upon reviews and analyses to be conducted by other federal, state, and local agencies. If those reviews are not completed on or before the dates listed in the Committee schedule, the Committee may need to modify the schedule.

The Commission staff is responsible for meeting all Committee deadlines for the filings produced by the Staff. The Applicant bears the burden of proof in this proceeding and must be responsible for the timeliness of its own filings as well as those of all other agencies outside the Commission. Thus, a delay by an agency other than the Commission staff in filing a required document may result in a necessary extension of the Committee schedule. In addition, the Committee may modify the schedule at any time either upon its own motion or that of a party. (Cal. Code of Regs., tit. 20, § 1709, subd. (c).)

Additional Information

For information on public participation, contact Roberta Mendonca, the Public Advisor, at (916) 654-4489 or (800) 822-6228 or e-mail at: **[pao@energy.state.ca.us]**.

Technical questions concerning the project should be addressed to Cheri Davis, the Commission's Project Manager, at (916) 657-4394 or e-mail at: **[cdavis@energy.state.ca.us]**.

Questions of a legal or procedural nature should be directed to Cheryl Tompkin, the Hearing Officer, at (916) 654-3893 or e-mail at: **[ctompkin@energy.state.ca.us]**.

If you require special accommodation to participate in this proceeding please contact Priscilla Ross at (916) 653-6631 or e-mail at: **[pross@energy.state.ca.us]**.

Media inquiries should be directed to Claudia Chandler, Assistant Executive Director for Media and Public Communications at (916) 654-4989 or e-mail at: **[energia@energy.ca.gov]**.

Information concerning the status of the project, as well as notices and other relevant documents, is also available on the Energy Commission's Internet home page at: **<http://www.energy.ca.gov/sitingcases/tracypeaker>**

Dated: December 11, 2001, at Sacramento, California.

ROBERT PERNELL
Commissioner and Presiding Member
GWF Tracy Peaker Project Committee

ROBERT A. LAURIE
Commissioner and Associate Member
GWF Tracy Peaker Project Committee

COMMITTEE SCHEDULE FOR GWF TRACY PEAKER PROJECT

DAY	DATE	ACTIVITY
0	Oct. 17	Energy Commission (CEC) determines Application is complete
	Oct. 23	Staff Files and Serves Data Requests
16	Nov. 2	Notice of Informational Hearing, Site Visit & Schedule
	Nov. 2	Staff Publishes Issue Identification Report
23	Nov. 9	Committee Determines Application Qualifies under Pub. Res. Code § 25552
	Nov. 13	Applicant Files Data Responses (per Staff)
	Nov. 20	Data Request Workshop(s) (per Staff)
42	Nov. 28	Informational Hearing & Site Visit
50	Dec. 7	Initial Critical Path Items Required from Applicant - <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Preliminary Determination of Compliance (PDOC) <input checked="" type="checkbox"/> Biological Opinion or Equivalent Demonstration of LORS Compliance <input checked="" type="checkbox"/> Cal-ISO Transmission Interconnection Review and Approval <input checked="" type="checkbox"/> "Will Serve" Letter or Equivalent from Water Supplier <input checked="" type="checkbox"/> Demonstration of NPDES Permit Compliance, if Necessary <input checked="" type="checkbox"/> Responses to All Data Requests Not Previously Submitted <input checked="" type="checkbox"/> Any Other Critical Path Item Known to Applicant
74	Dec. 31	Staff files and serves Staff Assessment (including results of Cumulative Impact Study)
	Early Jan.	Staff workshop on Staff Assessment
	Early Jan.	Committee Workshop(s)/Prehearing Conference
	Early Jan.	Committee Files and Serves Hearing Order
	Jan. 11	Testimony Filed and Served (Including Amended Staff Assessment)
	Mid Jan.	Evidentiary Hearing (Possibly Preceded by Committee Workshops)
	End of Jan.	Presiding Member's Proposed Decision (PMPD) Issued; Begin 30-day Public Comment Period
116	Feb. 11	Final Critical Path Items Required from Applicant - <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Corrected Final Determination of Compliance (CFDOC) <input checked="" type="checkbox"/> Adopted Final General Plan Amendment, Zoning Ordinance, and/or Conditions Required by Local Agencies but for CEC Jurisdiction
	30 days from issuance of PMPD	End of Public Comment Period on PMPD
139	Mar. 6	Decision on PMPD at Regularly Schedule Business Meeting (if parties are on schedule)

Or, if Necessary

		"Revised" PMPD Issued; Begin 15-day Public Comment Period
		End of Public Comment Period on Revised PMPD
		Decision on Revised PMPD